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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

RANDY RICH, as personal representative  
of RYAN RICH, deceased, and NICK  
JENSEN and TANYA JENSEN as  
guardians for R.J., a minor,

Plaintiffs,

v.

TASER INTERNATIONAL, INC., and  
DOES 1 to 10, inclusive,

Defendants.

Case No.: 2:09-cv-02450-ECR-RJJ

**JOINT PRETRIAL ORDER**

**JOINT PRETRIAL ORDER**

Following pretrial proceedings in this cause.

IT IS ORDERED:

**VII. BRIEF STATEMENT OF THE ACTION**

This is a personal injury action by Randy Rich, as personal representative of Dr. Ryan Rich, D.O. ("Dr. Rich"), deceased, and Nick and Tanya Jensen, as guardians for R.J., a minor. Plaintiffs allege that Dr. Rich died on January 4, 2008 as a result of cardiac arrest induced by the electrical current from a TASER® X26™ electronic control device ("ECD") that was used during an incident involving Nevada Highway Patrol ("NHP") Trooper Loren Lazoff ("Trooper Lazoff") on Interstate 15 ("I-15") in Las Vegas, Nevada. Plaintiffs sue Defendant TASER International, Inc. ("TASER"), the manufacturer of the ECD, for negligence (Count I) and strict product liability (Count II). Both causes of action are predicated on Plaintiffs' claim that TASER failed to warn about the known risk of discharging its ECDs into the chest of individuals resulting in cardiac arrest, although it knew as early as 2005 as a result of TASER funded research that such a risk existed. Despite this knowledge, Plaintiff's claim that TASER did not begin to caution police

1 officers to avoid deployments to the chest and warn about the risks of cardiac arrest as a result of  
2 chest deployments until September, 2009.

3  
4 TASER denies liability, including that any alleged defect in the ECD or inadequacy of  
5 TASER's warnings existed or caused Dr. Rich's death. TASER asserts that even though Dr. Rich  
6 knew and was warned not to operate a vehicle because he suffered from uncontrolled epileptic  
7 seizures, on January 4, 2008, he drove his vehicle, experienced a seizure while driving, crashed  
8 into several vehicles on I-15, and suffered cardiac arrest as a complication of his postictal state.  
9 TASER asserts that Plaintiffs cannot establish any hazard or risk caused by the ECD, nor can they  
10 establish that TASER breached a duty to warn. TASER asserts that it provided adequate  
11 warnings of the potential risks attendant to ECDs. In addition, TASER asserts that as a matter of  
12 general causation, an ECD cannot cause the injuries Dr. Rich suffered, and TASER did not know  
13 and could not have known or reasonably discovered that its ECD was unreasonably dangerous at  
14 all relevant times. TASER also asserts that Plaintiffs cannot demonstrate specific causation.  
15 TASER also asserts that Dr. Rich was more at fault for his death than any alleged fault on the part  
16 of TASER, and that Rich assumed the risk.  
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#### 19 **VIII. STATEMENT OF JURISDICTION**

20 The Court has diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332. The  
21 lawsuit is between Plaintiffs, citizens of Idaho and Utah, and TASER, a Delaware corporation  
22 with its principal place of business in Arizona. The amount in controversy exceeds \$75,000,  
23 exclusive of costs and fees.  
24

#### 25 **IX. FACTS ADMITTED BY THE PARTIES**

26 The following facts are admitted by the parties and require no proof:  
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1. As of January 4, 2008, Dr. Rich was a 33-year-old medical resident at Valley Hospital Medical Center in Las Vegas, Nevada.
2. R.J. was the natural daughter of Dr. Rich and Tanya Jensen.
3. On January 4, 2008, Trooper Lazoff discharged his TASER X26 ECD on Dr. Rich.
4. On September 20, 2007, Dr. Rich had a generalized, witnessed seizure.
5. In 2007, Dr. Rich stated to medical professionals that he had a history of seizures.
6. On November 10, 2007, Dr. Rich was treated at Valley Hospital for an automobile accident and seizure, noting again a history of a seizure disorder.
7. Some time shortly before November 2007, Dr. Rich was driving his vehicle and pulled over to the side of a road, because he felt an imminent seizure and called a friend to drive him instead.
8. In the days and months before January 4, 2008, Dr. Rich told his nurse practitioner that his seizures were increasing.
9. In late 2007, Dr. Rich's nurse practitioner instructed him at every visit not to drive because it was unsafe, including at a visit on January 3, 2008, a day before Dr. Rich's death.
10. On January 4, 2008, Dr. Rich was driving on I-15 when his truck struck the rear of a semi-truck trailer, after which Dr. Rich's truck swerved left and collided with a van.
11. At the time of Dr. Rich's collisions with other vehicles on I-15 on January 4, 2008, the traffic on I-15 was going approximately 50 mph.
12. After Dr. Rich's truck collided with other vehicles on I-15, Rich's truck swerved to the left and came to rest against the center median, with its front-left tire on the median wall.
13. Trooper Lazoff suspected that Dr. Rich was either having a medical emergency or was under the influence of drugs or alcohol.
14. In February, 2007, Dr. Rich's employment with Valley Hospital in Las Vegas, Nevada was terminated and his medical residency was suspended due to his failure to appear for his scheduled shift.
15. After completing the treatment program at the Betty Ford Center, in October 2007, Dr. Rich was rehired by Valley Hospital in Las Vegas and he was reinstated to the residency program.
16. The TASER X26 ECD is a weapon and use-of-force tool used by law enforcement officers.

- 1 17. NHP purchased X26 ECDs in July 2006 for use by its troopers.
- 2 18. The ECD used by Trooper Lazoff in his encounter with Dr. Rich on January 4,
- 3 2008 was purchased by NHP and shipped by TASER to NHP on July 20, 2006.
- 4 19. NHP purchases and trains its troopers on various use-of-force tools and options,
- 5 including ECDs.
- 6 20. NHP makes all decisions to equip troopers with ECDs and guides its troopers in
- 7 tactical practices.
- 8 21. TASER's April 12, 2006 Product Warnings were shipped (on July 20, 2006) with
- 9 the ECD used by Trooper Lazoff in his encounter with Dr. Rich, along with
- 10 TASER's Training Version 13 DVD, and TASER's 2006 X26 ECD Operating
- 11 Manual.
- 12 22. Trooper Lazoff received extensive training in various use-of-force tools and
- 13 options, including ECDs, firearms, open hand combat, batons, and handcuffing.
- 14 23. NHP conducted Trooper Lazoff's October 20, 2006 and November 20, 2007 ECD
- 15 training sessions utilizing TASER's training materials and PowerPoint
- 16 presentations
- 17 24. For his 2006 and 2007 ECD training sessions, Trooper Lazoff was presented with
- 18 and trained based on TASER's Training Version 13 PowerPoint<sup>®</sup> presentations
- 19 (user in 2006 and instructor in 2007).
- 20 25. For his October 20, 2006 ECD user training session, Trooper Lazoff and the other
- 21 trainees were presented with "TASER's Product Warnings – Law Enforcement,
- 22 April 12, 2006" as part of the troopers training.
- 23 26. For his November 20, 2007 ECD instructor training session, Trooper Lazoff and
- 24 the other trainees were presented with "TASER's Product Warnings – Law
- 25 Enforcement, March 1, 2007" as part of the troopers' training.
- 26 27. TASER Training Version 14 was released and effective as of December 1, 2007.
- 27 28. On January 4, 2008, Dr. Rich's first presenting cardiac rhythm, after being
- 28 identified non-responsive by Dr. Craig Morris ("Dr. Morris") and/or Trooper
- Lazoff, as identified on a heart or cardiac monitor or defibrillator, or by other
- means, was asystole (or flat line).
29. On January 4, 2008, Dr. Rich's second monitored cardiac rhythm, after being
- identified as non-responsive by Dr. Morris and/or Trooper Lazoff, as identified on
- a heart or cardiac monitor or defibrillator, or by any other means, was asystole (or
- flat line).

30. On January 4, 2008, after Dr. Morris and/or Trooper Lazoff identified Dr. Rich as being non-responsive, the only cardiac rhythm of Dr. Rich identified by any medical services or treatment provider was asystole (flat line).
31. At no time on January 4, 2008, did any medical services or treatment provider to Dr. Rich identify Dr. Rich as being in cardiac capture, or having the cardiac rhythm of ventricular tachycardia or ventricular fibrillation.
32. The 1988 Klein/Heger/Zipes [Klein LS, Miles WM, Heger JJ, Zipes DP: Transcutaneous pacing: patient tolerance, strength-interval relations, and feasibility for programmed electrical stimulation. Am J Cardiol. 62:1126-1129, 1988] paper showed that 4-8 milliamperes (“mA”) average current was delivered to the human chest and caused continuous cardiac capture but that ventricular fibrillation was never induced.
33. On January 4, 2008, Dr. Rich suffered from a seizure while driving and remained in postictal state—an altered state as the brain recovers from a seizure—during his encounter with Trooper Lazoff.
34. On March 27, 2008, a post-mortem examination by the Clark County Coroner determined that “the death of this 33-year-old Caucasian male, Ryan Rich, is due to seizure disorder with other conditions including restraining procedures.”

#### **X. FACTS NOT ADMITTED, BUT NOT CONTESTED, BY THE PARTIES**

The following facts, though not admitted, will not be contested at trial by evidence to the contrary:

None.

#### **XI. ISSUES OF FACT TO BE TRIED**

The following are the separate and specific issues of fact to be tried and determined upon trial:

1. Whether on July 20, 2006, it was known or knowable that the X26 ECD used by Trooper Lazoff on Dr. Rich was shown to cause cardiac arrest.
2. Whether the X26 ECD used by Trooper Lazoff on Dr. Rich actually caused Dr. Rich’s cardiac arrest.
3. Whether the X26 ECD used by Trooper Lazoff on Dr. Rich had a warnings defect rendering it unreasonably dangerous for its intended function, and the warnings defect caused Dr. Rich’s alleged injuries.

4. Whether TASER sold its X26 ECD without suitable and adequate warnings concerning its safety and foreseeable use thereby rendering it defective and unreasonably dangerous for its intended function.
5. Whether TASER knew or had reason to anticipate that the X26 ECD was unreasonably dangerous for the use for which it was supplied, had no reason to believe that those for whose use the product was supplied would realize its alleged dangerous condition, and failed to exercise reasonable care to inform users of its products of its alleged unreasonably dangerous condition or of the facts that made it likely to be unreasonably dangerous.
6. Whether the X26 ECD used by Trooper Lazoff was the actual and proximate cause of Dr. Rich's alleged injuries – that is, but for the allegedly defective warnings, the injury would not have occurred.
7. Whether the alleged warning defect with the X26 ECD used by Trooper Lazoff was a substantial factor in causing the alleged injury, without intervening or superseding causes.
8. Whether Dr. Rich reasonably mitigated his damages.
9. Whether TASER engaged in malicious or oppressive conduct or consciously and deliberately disregarded known safety measures regarding the use of its X26 ECD in reckless disregard of the likely results to justify punitive damages.
10. When Dr. Rich's cardiac arrest occurred in relation to a heart monitor determining that Dr. Rich was asystolic.

To the extent that any of these Issues of Fact are deemed to be more properly considered issues of law, they are incorporated in that section.

Aside from these issues developed by the parties, TASER also contends the following issues of fact should also be decided.

1. Whether TASER had reason to anticipate that Dr. Rich's alleged injuries could result from the use of the X26 ECD.
2. Whether the TASER X26 ECD was state of the art on July 20, 2006.
3. Whether Dr. Rich assumed or otherwise comparatively contributed to the risk of the injuries alleged in this case.
4. Whether Trooper Lazoff misused his X26 ECD in deploying it contrary to TASER's instructions and warnings.
5. Whether the X26 ECD used by Trooper Lazoff was capable of causing the particular injuries suffered by Dr. Rich on January 4, 2008.

- 1           6.       Whether Plaintiffs have met their burden of proof to establish a right for relief and  
2           right to damages, including without limitation punitive damages.

3                               **XII.    ISSUES OF LAW TO BE TRIED**

4           The following are the separate and specific issues of law to be tried and determined at  
5 trial:

- 6           1.       Whether TASER is strictly liable for the injuries to Dr. Rich from his exposure to  
7           TASER's X26 ECD.  
8           2.       Whether TASER was negligent by providing inadequate warnings with the sale of  
9           its X26 ECD on July 20, 2006.  
10          3.       Whether TASER owed a duty to Dr. Rich, including without limitation a duty to  
11          warn.  
12          4.       Whether Dr. Rich was more at fault for his own death than TASER.  
13          5.       All issues of fact in Section V to the extent they are also issues of law or mixed  
14          questions of fact/law.

15          Aside from these issues developed by the parties, TASER also contends the following  
16 issues of law should also be decided.

- 17          1.       Whether Dr. Rich was negligent in driving his motor vehicle on I-15 despite being  
18          an epileptic with medically uncontrolled seizures and having been repeatedly  
19          advised not to drive by his medical providers.  
20          2.       Whether Dr. Rich violated N.R.S. § 439.270 by not reporting his epileptic  
21          condition to the Health Division of the Nevada Department of Health and Human  
22          Services and was negligent *per se*.

23                               **XIII.   EXHIBITS AND DEPOSITIONS**

24          **A.       EXHIBITS**

25          The parties reserve the right to offer the following exhibits into evidence. The parties  
26 have stipulated to the genuineness and authenticity of the following exhibits. All other objections  
27 are reserved for trial. The parties do not waive any objections by virtue of listing exhibits here.  
28



**I. Plaintiffs' Exhibits:**

**A. Police Reports**

1. Nevada Highway Patrol ("NHP") incident reports;
2. NHP Homicide Investigation Report.
3. Las Vegas Metropolitan Police Department ("LVMPD") Voluntary Statement of Craig Morris, DDS
4. LVMPD Voluntary Statement of Trooper Loren Lazoff.
5. LVMPD Interview of Trooper Lazoff
6. LVMPD Crime Scene Investigation Narrative Report
7. LVMPD Use of Force Investigation – Administrative Report – NHP In Custody Death
8. LVMPD Criminalistics Bureau Investigation records

**B. NHP Training**

9. NHP TASER Use Policy;
10. Nevada Department of Public Safety – Department Policy Manual – Electronic Control Devices – 3/14/07
11. Trooper Lazoff's TASER X26 Training Application
12. Trooper Lazoff's TASER Certification test
13. Trooper Lazoff's TASER Certification test answer key
14. Trooper Lazoff's TASER Instructor Certification

**C. TASER Training Materials**

15. TASER Training Version 12.
16. TASER Training Version 13.
17. TASER Training Version 14.

**D. TASER's Product Warnings**

18. TASER Product Warnings – Law Enforcement (April 12, 2006)
19. TASER Product Warnings – Law Enforcement (March 1, 2007)

20. All prior versions of TASER's Product Warnings – Law Enforcement, prior to April 12, 2006.
21. Instructor and User Warnings, Risks, Liability Release and Covenant Not to Sue (April 12, 2006)
22. Instructor and User Warnings, Risks, Liability Release and Covenant Not to Sue (March 1, 2007)

**E. Dr. Rich's Medical Records**

23. Valley Hospital Medical Center records
24. Betty Ford Clinic records
25. Spring Valley Hospital records
26. Clark County Coroner records
27. Quest Diagnostics records
28. American Medical Response records (January 4, 2008)
29. American Medical Response records (September 2007)
30. Pain Institute of Nevada records
31. Mountain View Hospital records
32. Mountain View Clinic records
33. Joan McCraw, MSN, FNP, APN records
34. Bennet I. Omalu, M.D. Forensic Neuropathology Report
35. Center for Diseases and Surgery of the Spine records
36. Western Regional Center for Brain & Spine Surgery records
37. Renaissance Ranch records
38. Clark County Fire Department records
39. Central Wyoming Neurosurgery

**F. Literature & Miscellaneous Documents**

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12 MD, Stephane Masse MASC, Paul Dorian MD, Douglas Cameron MD,  
13 Vijay S. Chauhan MD, Eugene Downar MD, Elias Sevaptisidis DEC,  
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23 X26 Cause Immediate or Delayed Sudden Cardiac Arrest in Normal  
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17 *Physiological Effects of a Conducted Electrical Weapon on Human*  
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- 6 116. Toxicology Report on Ryan Rich
- 7 117. Autopsy Photographs of Ryan Rich
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- 17 125. Ryan Rich's employment records
- 18 126. Demonstrative aids, exhibits, or references, including without limitation  
19 each illustration, graphic, chart, and video included in any of the TASER-  
20 device-related references or any TASER Training Version; any documents,  
21 or portions thereof, referenced or cited, or any compilation of documents;  
22 any document, information, illustration, PowerPoint, lesson plan, drawing,  
23 graphic, video, or compilation that is on, or included in, any of the TASER  
24 training CDs/DVDs Versions 1 through 14.
- 25 127. All answers to interrogatories, requests for production of documents, and  
26 requests for admissions in this matter, including all amendments and/or  
27 supplements thereto, and including any and all documents attached thereto.
- 28 128. All transcripts of depositions and any document marked as an exhibit to a  
deposition in this litigation as well as litigation in which TASER,  
International, Inc., is a named defendant.

129. Reports of all parties' experts and all supporting documentation, data, video presentations, learned treatises, publications, studies, publications or studies that any expert may have relied on or used to reach their opinions.

130. Enlargements of graphs, photographs or other exhibits.

131. All documents and exhibits identified by other parties, without waiver of objection.

132. Deposition testimony of Patrick Tchou, M.D., in *Fahy v. TASER*.

**G. Expert Reports**

133. Expert Report of Douglas Zipes, M.D., including CV, and literature and exhibits cited.

134. Expert Report of Nathan Lavid, M.D., including CV, and literature and exhibits cited.

135. Expert Report of Renu Virmani, M.D., including CV, and literature and exhibits cited

136. Expert Report of Robert W. Johnson, MBA, including CV, and literature and exhibits cited.

**II. Defendant's Exhibits:**

**A. Warnings and Training**

1. Nevada Highway Patrol ("NHP") TASER Use Policy

2. NHP General Orders re: Use of Force

3. Nevada Department of Public Safety – Department Policy Manual – Electronic Control Devices – 3/14/07

4. TASER's Electronic Control Device Research Index (and all documents referenced herein)

5. TASER's Training Bulletins

6. Manufacturing report for TASER International, Inc. ("TASER") X26™ Electronic Control Device ("ECD") ("X26 ECD") X00-207482

7. Sales record for X26 ECD X00-207482

8. TASER's Version 13 DVD, including TASER's X26 ECD Instructor Certification Course, Version 13.0, and excerpts therefrom, and TASER's X26 ECD User Course, Version 13.0, and excerpts therefrom

- 1 9. TASER's Version 14 DVD, including TASER's X26 ECD Instructor
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- 3 X26 ECD User Course, Version 14.0, and excerpts therefrom
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- 7 13. Trooper Lazoff's Certification
- 8 14. Trooper Lazoff's Instructor Certification
- 9 15. Trooper Lazoff's Training Report
- 10 16. Trooper Lazoff's Nevada DPS [Department of Public Safety] Employee
- 11 Profile
- 12 17. TASER Detailed Communication Report for NHP Troopers including
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- 16 20. All prior versions of TASER's Product Warnings – Law Enforcement,
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C. **Rich's Medical Records**

109. Valley Hospital Medical Center records
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**D. Miscellaneous**

126. Declaration and Expert Report of Keith Hock, including CV, and literature and exhibits cited
127. Declaration and Expert Report of John Peters, Ph.D. including CV, and literature and exhibits cited
128. Declaration and Expert Report of Patrick Smith, TASER CEO, including CV, and literature and exhibits cited
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154. Clark County Fire Department Incident Report
155. TASER X26 ECD Download for X00-207482
156. Clark County Coroner Autopsy Report on Ryan Rich
157. Toxicology Report on Ryan Rich
158. Autopsy Photographs of Ryan Rich
159. Scene Photographs
160. Photographs of Ryan Rich in the hospital
161. NHP Use of Force / In Custody Death Report
162. NHP Voluntary Statement of Craig Morris, DDS
163. NHP Voluntary Statement of Juan Rodriguez
164. NHP Voluntary Statement of Randy Christopher
165. NHP Voluntary Statement of Ryan Edwards
166. State of Nevada Traffic Accident Report 2/11/2008
167. Voluntary Statement of Ryan Rich – 11/9/2007
168. Idaho Driver's license records
169. GEICO Indemnity Company records
170. Ryan Rich's Journal
171. Letter to Dr. Milne from Nevada Professional Health Program 9/18/2007
172. Declaration of J. Patrick Reilly
173. Transcripts from trial and deposition testimony of Dr. Douglas Zipes
174. Zipes, D., Are you Tasing me? TASERs Can Cause Fatal [Ventricular Tachy]Arrhythmias: Debate: Heart Rhythm Society, May 15, 2009 (PowerPoint Presentation)
175. Unloaded exemplar X26 ECD without battery inserted and in an inert state
176. Two 3-volt Duracell® CR123 cells
177. Exemplar X26 ECD cartridge, probes and wire

- 1 178. Tissue slides from cardiac tissue of decedent
- 2 179. Dr. Stone's photographs of cardiac tissue from decedent (5 photographs –
- 3 Exhibits 226A-226E)
- 4 180. Tax Returns of Ryan Rich
- 5 181. Ryan Rich's employment records
- 6 182. Supplemental Declaration of Patrick W. Smith in Support of Motion for
- 7 Summary Judgment
- 8 183. TASER's Second Set of Requests for Admissions to Plaintiffs
- 9 184. Plaintiff's Response to TASER's First Set of Requests for Admission
- 10 185. Declaration of Detective Barry Jensen with the LVMPD dated June 9, 2011
- 11 186. Declaration of Thom Jackson with the NHP dated June 29, 2011
- 12 187. Transcript of Inquest Hearing dated April 18, 2008
- 13 188. Report by James N. Davis, The Davis Group, April 20, 2011 (Ex. 5 to
- 14 deposition of Robert W. Johnson)
- 15 189. The Psychiatric Autopsy and Its Application in Law, Written course (Ex. 6
- 16 to deposition of Nathan Lavid, M.D.)
- 17 190. Demonstrative aids, exhibits, or references, including without limitation
- 18 each illustration, graphic, chart, and video included in any of the TASER-
- 19 device-related references or any TASER Training Version; any documents,
- 20 or portions thereof, referenced or cited, or any compilation of documents;
- 21 any document, information, illustration, PowerPoint, lesson plan, drawing,
- 22 graphic, video, or compilation that is on, or included in, any of the TASER
- 23 training CDs/DVDs Versions 1 through 14.
- 24 191. All answers to interrogatories, requests for production of documents, and
- 25 requests for admissions in this matter, including all amendments and/or
- 26 supplements thereto, and including any and all documents attached thereto
- 27 192. All transcripts of depositions and any document marked as an exhibit to a
- 28 deposition in this litigation.
193. Reports of all parties' experts and all supporting documentation, data,
- video presentations, learned treatises, publications, studies, publications or
- studies that any expert may have relied on or used to reach their opinions
194. Enlargements of graphs, photographs or other exhibits

195. All documents and exhibits identified by other parties, without waiver of objection.

**B. DEPOSITIONS**

The parties may use, through stenographic means or video tape, excerpts from the following depositions. The parties reserve all objections to this testimony.

**I. Plaintiffs will offer the following depositions:**

Plaintiffs' deposition designations are listed in Exhibit A attached hereto.

**II. Defendant will offer the following depositions:**

TASER's deposition designations are listed in Exhibit B attached hereto. TASER reserves the right to designate deposition testimony for any witness who becomes unavailable.

**XIV. WITNESSES**

The following witnesses may be called by the parties upon trial:

**I. Names and address of Plaintiffs' witnesses:**

1. Trooper Loren Lazoff, Nevada Highway Patrol, Las Vegas, NV.
2. Piotr Kubiczek, M.D., Clark County Coroner's Office, Las Vegas, NV
3. Craig Morris, DDS, 5718 San Florentine, Las Vegas, NV 89141
4. Peter Mansky, M.D., 4635 Durango Dr., Suite 101, Las Vegas, NV 89147
5. Barry Jensen, Las Vegas Metropolitan Police Department, Las Vegas, NV
6. Patrick Smith, CEO TASER International, Inc., Scottsdale AZ
7. Fireman Christopher Revell, Clark County Fire Department, 575 E. Flamingo Road, Las Vegas, NV 89119.
8. Fireman Ron P. Mauro, Clark County Fire Department, 575 E. Flamingo Road, Las Vegas, NV 89119 (702) 455-7311;
9. Joan McCraw, MSN, FNP, APN, 2975 South Rainbow, Suite H-2, Las Vegas, NV 89146.
10. Raymond Mathieson, P.A., Mountain View Hospital, 3100 N. Tenaya Way, Las Vegas, NV 89128.

11. R. J., 7477 South Kay Lane, South Weber, UT 84405.
12. Randy Rich, 920 10th Street, Rupert, Idaho 83350.
13. Criss Rich, 920 10th Street, Rupert, Idaho 83350.
14. Melanie Hunsaker, 2263 East 4195 North, Filer, ID 83328.
15. Leslie Johnson, 920 10th Street, Rupert, Idaho 83350.
16. Greg Hunsaker, 6885 South 455 East, Midvale, UT 84047.
17. Nathan Hunsaker, 502 Kensington Place, Pasadena, CA 91103.
18. C. Dean Milne, DO, FACP, Director of Medical Education at Valley Hospital Medical Center, 620 Shadow Lane, Las Vegas, NV 89106.
19. Deborah O'Connor, MMH, Administrative Manager of the Intern/Residency Program at Valley Hospital Medical Center, 620 Shadow Lane, Las Vegas, NV 89106.
20. Dr. Harry Haroutunian, Betty Ford Center, 39000 Bob Hope Drive Rancho Mirage, CA 92270.
21. Sarah Troxel, M.D., 3753 West 100th Avenue, Anchorage, Alaska 99515.
22. Steve Ashton, 1017 "D" Street, Rupert, ID 83350, (208) 670-1675.
23. Bishop Robert Trevino, 41 South 200 West, Rupert, ID 83350.
24. Douglas P. Zipes, M.D., 10614 Winterwood, Carmel, Indiana 46032.
25. Nathan Lavid, M.D., 65 Pine Avenue, Long Beach, CA 90802.
26. Robert W. Johnson, MBA., 4984 El Camino Real, Suite 210, Los Altos, CA 94022
27. Renu Vimani, M.D., 19 Firstfield Road, Gaithersburg, MD 20878
28. Any witness or knowledgeable person identified by any other party. Plaintiffs, however, does not waive objections to any witnesses listed by the other parties to this litigation solely by reason of their inclusion by reference in this list
29. Any necessary foundational or authentication custodians or witnesses
30. Any necessary rebuttal witnesses or experts

**II. Names and addresses of Defendant's witnesses:**

1. Trooper Loren Lazoff, Nevada Highway Patrol, Las Vegas, NV

- 1                   2.       Piotr Kubiczek, M.D., Clark County Coroner's Office, Las Vegas, NV
- 2                   3.       Craig Morris, DDS, 5718 San Florentine, Las Vegas, NV 89141
- 3                   4.       Peter Mansky, M.D., 4635 Durango Dr., Suite 101, Las Vegas, NV 89147
- 4                   5.       Barry Jensen, Las Vegas Metropolitan Police Department, Las Vegas, NV
- 5                   6.       Patrick Smith, CEO TASER International, Inc., Scottsdale AZ
- 6                   7.       Rick Guilbault, VP of Training and Education TASER International, Scottsdale, AZ
- 7                   8.       Gary Vilke, M.D., FACEP, FAAEM, Dept. of Emerg. Med., UCSD Medical Center, 200 West Arbor Center, San Diego, CA 92103-8676
- 8                   9.       Michael Evans, Ph.D., AIT Laboratories, Inc., 2265 Executive Drive, Suite A, Indianapolis, IN 46241
- 9                   10.      Jeni Kostelac, M.S., CRC, CCM, 6655 Palmyra Ave., Las Vegas, NV 89146
- 10                  11.      Jan Leestma, M.D., 1440 North Kingsbury Street, Suite 210, Chicago, IL 60642
- 11                  12.      James Stone, M.D., PhD, Massachusetts General Hospital, Simches Research Building, Room 8236, 185 Cambridge Street, Boston MA 02114
- 12                  13.      Mark W. Kroll, Ph.D., FACC, Box 23, Crystal Bay, MN 55323
- 13                  14.      John G. Peters, Jr., Ph.D., M.B.A., CLS, COI, 209 S. Stephanie St., Suite B 249, Henderson, NV 89012
- 14                  15.      Dorin Panescu, Ph.D., FEM, 5275 Country Forge Lane, San Jose, CA 95136
- 15                  16.      Keith Hock, GBQ Consulting, 312 Walnut Street, Suite 1600, Cincinnati, OH 45202
- 16                  17.      J. Patrick Reilly, The John Hopkins University, Applied Physics Laboratory, Laurel, MD and Metatec Associates, Silver Springs, MD
- 17                  18.      Captain Thom Jackson, Nevada Highway Patrol
- 18                  19.      Joan McCraw, MSN, FNP, APN, 2975 South Rainbow, Suite H-2, Las Vegas, NV 89146
- 19                  20.      Raymond Mathieson, P.A., Mountain View Hospital, 3100 N. Tenaya Way, Las Vegas, NV 89128
- 20                  21.      Christopher Revell, Clark County Fire Department, Las Vegas, Nevada
- 21                  22.      Bennet I. Omalu, M.D., 1132 Junewood Court, Lodi, CA 95242
- 22
- 23
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23. Dean Milne, D.O., Valley Hospital, 620 Shadow Lane, Las Vegas, Nevada, 89106
24. Deborah O'Connor, Valley Hospital, 620 Shadow Lane, Las Vegas, Nevada, 89106
25. Ryan C. Edwards, address unknown at this time
26. Randy Christopher, address unknown at this time
27. Any witness or knowledgeable person identified by any other party. TASER, however, does not waive objections to any witnesses listed by the other parties to this litigation solely by reason of their inclusion by reference in this list
28. Any necessary foundational or authentication custodians or witnesses
29. Any necessary rebuttal witnesses or experts

#### XV. MOTIONS IN LIMINE

On July 2, 2011, TASER filed Motions to Exclude Plaintiffs' Tendered Experts Dr. Jerome Engel, Dr. Michael Wogalter, and Dr. Douglas Zipes. Dckt. Nos. 50-52. On March 30, 2012, the Court granted the Motions as to Engel and Wogalter, and denied the Motion as to Zipes. [Dckt. No. 119].

Any remaining motions *in limine* will be filed thirty (30) days prior to trial in compliance with LR 16-3(b).

In addition, TASER intends to file a Motion to Bifurcate the trial of this matter, pursuant to Federal Rule of Civil Procedure 42, into two phases: (1) to address the issues of liability and compensatory damages and (2) to address whether to award and the amount of any punitive damages.

#### XVI. TRIAL DATE

Counsel have met and conferred regarding possible trial dates and have been unable to reach an accord on agreeable dates. Therefore, Plaintiff is available and submits the following three dates for trial: July 15, 2013; July 22, 2013; and August 5, 2013. TASER is available and

1 submits the following three dates for trial: November 4, 2013; December 2, 2013; and March 3,  
2 2014.

3  
4 It is estimated that the trial herein will take a total of 15 days.

5 APPROVED AS TO FORM AND CONTENT:

6 s/Peter M. Williamson

7 Peter M. Williamson [California Bar #97309]  
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**XVII. ACTION BY THE COURT**

- a. This case is set down for court/jury trial on the fixed/stacked calendar on **8-5-2013 at 9:00 a.m.** Calendar call shall be held on **7-31-2013 at 1:30 p.m.**
- b. An original and two (2) copies of each trial brief shall be submitted to the clerk on or before — **7-31-2013 at calendar call.**
- c. An original and two (2) copies of all instructions requested by either party shall be submitted to the clerk for filing on or before **7-31-2013 at calendar call.**
- d. An original and two (2) copies of all suggested questions of the parties to be asked of the jury panel by the court on *voir dire* shall be submitted to the clerk for filing on or before **7-31-2013 at calendar call.**

The foregoing pretrial order has been approved by the parties to this action as evidenced by the signatures of their counsel hereon, and the order is hereby entered and will govern the trial of this case. This order shall not be amended except by order of the court pursuant to agreement of the parties or to prevent manifest injustice.

DATED: February 12, 2013.

  
UNITED STATES DISTRICT JUDGE

CHDS01 804751

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22 Attorneys for plaintiffs, RANDY RICH, as the personal  
23 representative of RYAN RICH, deceased, and NICK JENSEN  
24 and TANYA JENSEN, as Guardians of R. J., a minor

25  
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28  
**IN THE UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

29 RANDY RICH, as the personal  
30 representative of RYAN RICH, deceased,  
31 and NICK JENSEN and TANYA  
32 JENSEN, as Guardians for R. J., a minor,

33 Plaintiffs,

34 vs.

35 TASER INTERNATIONAL, INC., and  
36 DOES 1 to 10, inclusive,

37 Defendants.

Case No. 2:09cv-02450-ECR-RJJ

**EXHIBIT "A" — PLAINTIFFS'  
DEPOSITION DESIGNATIONS  
FOR TRIAL**

**PLAINTIFFS' DEPOSITION DESIGNATIONS FOR TRIAL**

Plaintiffs RANDY RICH, as the personal representative of RYAN RICH, deceased, and NICK JENSEN and TANYA JENSEN, as Guardians for R. J., a minor (hereinafter jointly referred to as "Plaintiffs") identify the following deposition excerpts for use at trial.

By designating deposition excerpts, Plaintiffs are not waiving their right to call the witness at trial. Plaintiffs reserve objections to designations from TASER. Without waiving objections, Plaintiffs reserve the right to use TASER's designations. Plaintiffs also reserve the right to amend or supplement designations in accordance with the Federal Rules of Civil Procedure, local rules, or by agreement, including rebuttal designations if necessary.

**DEPOSITION DESIGNATIONS**

Plaintiffs offer the following deposition designations (and in instances counter-designations) for use at trial. For these witnesses, Plaintiffs fully expect that the witnesses will be called at trial, and Plaintiffs are submitting the designations in the event that the witness becomes unavailable to testify. Plaintiffs also reserve the right to designate further deposition testimony in compliance with the requirements of Local Rule 16-3 and 16-4 in the event a witness becomes unavailable who is not listed in these designations. Plaintiffs also reserve the right to designate relevant deposition testimony from other cases in which certain expert witnesses have testified in the event such experts are unavailable to testify at trial.

**Douglas E. Klint, Esq. (Fontenot)**

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1 31:1-4  
2 40:5-25  
3 41:1-14  
4 43:12-25  
5 44:1-2  
6 50:21-25  
7 51:1-8  
8 53:5-25  
9 54:1-2  
10 73:6-25  
11 74:1-25  
12 75:1-5  
13 90:24-25  
14 91:1-23  
15 111:5-14

16 **Robert Stratbrucker, M.D. (Fontenot)**

17 5:18-21  
18 11:22-25  
19 12:1-6  
20 13:8-25  
21 14:1-17  
22 17:12-21  
23 18:14-18  
24 20:7-25  
25 21:1-25  
26 22:1-25  
27 23:1-25  
28 24:1-5

1	36:7-25
2	37:1-25
3	38:1-25
4	39:1-25
5	40:1
6	48:4-17
7	50:14-25
8	51:1-9
9	55:8-16
10	56:5-25
11	57:1-3
12	59:19-25
13	60:1-25
14	61:1-16
15	62:8-25
16	63:1-13
17	66:17-25
18	67:1-15
19	77:19-25
20	78:1-11;25
21	79:1-25
22	80:1-4;22-25
23	81:1-25
24	82:1-25
25	83:1-20
26	93:10-25
27	94:1-8;22-25
28	95:1-19

1	102:13-19
2	103:14-25
3	104:1-21
4	110:15-25
5	111:1-25
6	112:1-25
7	113:1-25
8	114:1-25
9	115:1-25
10	116:1-25
11	117:1-25
12	118:1-14
13	131:10-25
14	132:1-25
15	133:1-3
16	135:11-25
17	136:1-25
18	137:1-25
19	138:1-25
20	139:1-24
21	143:5-7
22	144:12-25
23	147:7-9
24	150:24-25
25	151:1-25
26	152:1-25
27	153:1-17;25
28	154:1-25



1 155:1-9;16-25  
2 156:1-25  
3 157:1-25  
4 158:1-25  
5 159:1-25  
6 160:1-25  
7 161:1-25  
8 162:1-25  
9 163:1-7  
10 164:21-25  
11 165:1-25  
12 166:1-25  
13 167:1-25  
14 168:1-25  
15 169:1-25  
16 170:1-25  
17 171:1-25  
18 172:1-16

19 **Charles Swerdlow, M.D. (Fontenot)**

20 7:11-25  
21 8:1-3;19-25  
22 9:1-25  
23 10:1-25  
24 11:1-19  
25 14:10-25  
26 15:1-25  
27 16:1-25  
28 17:1-21

1	18:20-25
2	19:1-7
3	23:22-25
4	24:1-19;20-25
5	25:1-5
6	29:12-25
7	30:1-9
8	39:3-17
9	40:17-25
10	41:1-25
11	42:1-7;12-25
12	43:1-25
13	44:1-13
14	45:8-25
15	46:1-25
16	47:1-4
17	48:12-25
18	49:8-25
19	50:1-3;7-29
20	51:1-8;19-25
21	52:1-15
22	55:16-25
23	56:1-25
24	57:1-14
25	58:5-14;15-25
26	59:1-25
27	60:1-25
28	61:1-14;25

1	62:1-25
2	63:1-3
3	64:22-25
4	65:1-25
5	80:6-29
6	81:1-5;13-19
7	82:2-12
8	85:14-19
9	86:7-25
10	87:1-25
11	88:1-21
12	90:6-21
13	91:12-19
14	92:13-25
15	93:1-4
16	94:6-25
17	95:1-6
18	99:19-25
19	100:1-25
20	101:1-25
21	102:1-25
22	103:1-9
23	105:14-25
24	106:1-7
25	107:5-25
26	108:1-22
27	110:13-25
28	111:1-5

1	114:9-17
2	115:7-15
3	<b>Max Nerheim (Fontenot)</b>
4	14:23-25
5	15:1-24
6	16:13-25
7	17:1-12;18-25
8	18:1-25
9	19:1-6
10	28:3-25
11	29:1-8
12	34:3-20
13	35:2-12
14	36:22-25
15	37:1-2;6-20
16	38:12-25
17	39:1-3;14-25
18	40:1-25
19	41:1-15
20	48:11-25
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22	50:15-25
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2	66:1-23
3	70:10-25
4	103:6-25
5	104:1-2;22-25
6	105:1-22
7	109:14-18
8	115:6-25
9	116:1-4
10	118:14-19
11	120:5-25
12	121:1-22
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14	124:1-15
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17	140:1-25
18	141:1-25
19	142:1-5
20	161:6-25
21	162:1-25
22	163:1-25
23	164:1-25
24	165:1-25
25	166:1-25
26	167:1-14
27	168:1-14
28	176:3-25

1 177:1-15  
2 **Rick Guilbault (Fontenot)**  
3 4:8-10  
4 7:7-25  
5 8:1-3  
6 10:3-22  
7 11:4-9  
8 12:1-4;11-24  
9 15:21-25  
10 16:1-7;18-25  
11 17:8-18  
12 18:3-22  
13 19:18-25  
14 20:1-4;11-19  
15 23:8-24  
16 24:5-18  
17 25:1-17  
18 29:6-12;21;22-25  
19 30:1-25  
20 31:1-13  
21 37:22-25  
22 38:1-4;12-14;24-25  
23 39:1-3  
24 46:3-6;14-23  
25 47:18-20;21-25  
26 48:4-25  
27 49:1-10;16-18;20-25  
28 50:1-4;13-25

1	51:1-3;14-19
2	52:17-25
3	53:1-3
4	62:1-19
5	63:2-11;23-25
6	64:1-13
7	66:2-7;17-22
8	67:9-12
9	76:10-15;20-25
10	77:1
11	78:21-25
12	79:1-5
13	96:10-12;25
14	97:1-18;21-25
15	98:1-25
16	99:1-12;25
17	100:1-24
18	103:14-25
19	104:1-5
20	105:15-24
21	106:20-25
22	107:1-21
23	109:24-25
24	110:1-4;12-14
25	113:8-25
26	114:1-23
27	115:1-8;11-14;18-23
28	116:2-25



1 117:1-4;9-20  
2 120:18-21  
3 121:2-7;18-25  
4 122:1-25  
5 124:2-15  
6 127:17-25  
7 142:22-25  
8 143:1-3;9-11;13-15

9 **Ashley Alward (Fontenot)**

10 6:25  
11 7:1-3  
12 11:6-25  
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14 18:22-25  
15 19:1-8  
16 24:17-25  
17 25:1-9  
18 28:16-25  
19 29:1-18  
20 30:4-17  
21 32:25  
22 33:1-23  
23 37:4-19  
24 38:10-25  
25 39:1-2;17-25  
26 42:7-11  
27 44:22-25  
28 45:1-25

1	46:1-19
2	50:18-25
3	51:1;8-19
4	60:1-18
5	61:23-25
6	62:1
7	63:15-25
8	64:1-9
9	66:1-25
10	67:1-25
11	68:1-25
12	69:1-25
13	70:1-15;16-25
14	71:1-25
15	72:1-12
16	99:25
17	100:1-4
18	104:6-25
19	105:1-24
20	107:9-17
21	109:20-25
22	110:1-25
23	111:1-5;15-18
24	112:10-23
25	113:18-25
26	114:1-13
27	115:2-10;18-25
28	116:1-21

1	118:12-25
2	119:1-25
3	120:1-25
4	121:1-5
5	122:22-25
6	123:1-25
7	124:1;19-23
8	129:10-25
9	130:1-14
10	131:4-12
11	<b>Andrew Hinz (Fontenot)</b>
12	5:13-15
13	9:23-25
14	10:1-13;24-25
15	11:1-3
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22	25:22-25
23	26:1-25
24	27:1-25
25	28:1-4
26	29:5-6
27	30:22-25
28	31:1;9-22

1	32:12-24
2	33:8-25
3	34:1-4;19-25
4	35:1-15;25
5	36:1-15
6	37:12-20
7	40:11-15
8	44:9-18;21-25
9	45:1
10	46:16-25
11	47:1-6;15-21
12	59:7-25
13	60:1-10
14	77:23-25
15	78:1-15
16	89:2-8;23-25
17	90:1-25
18	91:1-10
19	92:7-15
20	94:9-14
21	95:1-8
22	103:1-4;11-25
23	104:1-25
24	105:1-18
25	106:14-25
26	107:1-25
27	108:1-3
28	110:3-10

1	115:8-25
2	116:1-25
3	117:1-16
4	118:11-25
5	120:1-13
6	124:4-25
7	125:1-25
8	126:1
9	<b>Tom Smith (Fontenot)</b>
10	5:7-11
11	17:5-25
12	18:1-7;16-25
13	19:1-14
14	20:2-24
15	32:3-19
16	40:19-25
17	41:1-11
18	46:6-25
19	47:1-7;8-29
20	48:1-25
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22	50:1-23
23	51:6-25
24	52:1-25
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28	61:1-25

1	62:1-18
2	77:17-25
3	78:1-11
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5	80:1-14
6	97:6-17
7	99:10-25
8	106:6-12
9	109:10-25
10	110:1-25
11	111:1-25
12	112:1-25
13	113:1-19
14	116:7-25
15	117:1-25
16	118:1-25
17	119:1-25
18	120:1-25
19	121:1-25
20	122:1-25
21	123:1;17-25
22	124:1-25
23	125:1-25
24	126:1-25
25	127:1-25
26	128:1-25
27	129:1-25
28	130:1-25

1	131:1-25
2	132:1-13
3	140:17-25
4	141:1-25
5	142:1-25
6	143:1-25
7	144:1-12
8	146:7-25
9	147:1-11
10	154:6-29
11	155:1-3
12	<b>Rick Smith (Butler)</b>
13	6:16-19
14	10:7-25
15	11:1-29
16	12:1-13
17	13:17-24
18	14:5-25
19	15:1-25
20	16:1-25
21	17:1-4;19-25
22	18:1-25
23	19:1-11
24	22:14-25
25	23:1-4
26	24:17-25
27	25:1-11
28	30:1-25

1	31:1-25
2	32:1-3;19-24;25
3	33:1-25
4	34:1-16
5	37:13-17
6	44:17-25
7	45:1-25
8	46:1-25
9	47:1-23
10	48:9-15
11	53:4-25
12	54:1-3
13	56:11-16
14	57:9-25
15	58:1-24
16	61:11-17
17	62:7-24
18	65:3-6;19-25
19	66:1-22
20	67:15-25
21	68:1
22	70:21-25
23	71:1-29
24	72:1-2
25	78:15-29
26	79:1-25
27	80:1-13
28	83:21-25



1	84:1-25
2	86:1-14
3	89:1-25
4	90:9-25
5	91:1-20
6	115:3-25
7	116:1-21
8	191:9-25
9	192:1;7-20
10	193:21-25
11	198:7-24
12	202:1-25
13	203:1-15
14	204:3-25
15	205:1-29
16	206:1-25
17	207:1-6
18	228:10-25
19	229:1-5
20	234:19-24
21	<b>Rick Smith (Fontenot)</b>
22	35:3-22
23	99:1-25
24	100:1-25
25	101:1-8;13-25
26	102:1-25
27	103:1-10;23-25
28	104:1-25

1 105:1-25  
2 106:1-3  
3 153:12-25  
4 154:1-25  
5 155:1-25  
6 156:1-25  
7 157:1-5;10-25  
8 158:1-13  
9 161:14-25  
10 162:1-25

11 **Patrick Tchou, MD (Fahy)**

12 1:12-19  
13 5:1-11  
14 6:2-17  
15 6:25  
16 7:1-12  
17 9:5-25  
18 10:1-9  
19 10:18-25  
20 11:1-22  
21 12:25  
22 13:1-21  
23 14:3-25  
24 15:1-25  
25 16:1-25  
26 17:1-25  
27 18:1-21  
28 19:11-25

1	21:1-25
2	22:1-24
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5	27:1-25
6	28:1-8
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10	34:1-25
11	35:1-7
12	35:19-25
13	36:1-25
14	37:1-25
15	38:1-16
16	38:22-25
17	39:1-9
18	40:18-25
19	41:1-10
20	42:13-15
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23	45:22-25
24	46:1-25
25	47:1-25
26	48:1-16
27	49:3-25
28	50:1-11

1	51:5-25
2	52:1-25
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5	55:1-13
6	56:25
7	57:1-12
8	59:3-25
9	60:1-25
10	61:1-3
11	62:9-25
12	63:1-25
13	64:1-25
14	65:1-8
15	66:4-25
16	67:1-6
17	67:19-25
18	68:1-25
19	69:1-25
20	70:1-25
21	71:1-25
22	72:1-25
23	73:1-25
24	74:1-25
25	75:1-25
26	77:1-25
27	78:1-11
28	78:14-25

1 79:1-25  
2 80:1-16  
3 80:24-25  
4 81:1-25  
5 82:1-25  
6 83:1-25  
7 84:1-25  
8 85:1-25  
9 86:1-6  
10 86:19-25  
11 87:1-2  
12 87:14-25  
13 88:1-4  
14 88:15-25  
15 89:1-25  
16 90:1-25  
17 91:1-25  
18 92:1-7  
19 93:12-25  
20 94:1-25  
21 95:1-4

22 DATED: February 7, 2013

Respectfully submitted,  
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LAW OFFICES OF JOHN BURTON

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

RANDY RICH, as personal representative  
of RYAN RICH, deceased, and NICK  
JENSEN and TANYA JENSEN as  
guardians for R.J., a minor,

Plaintiffs,

v.

TASER INTERNATIONAL, INC., and DOES 1 to  
10, inclusive,

Defendants.

Case No.: 2:09-cv-02450-ECR-RJJ

**EXHIBIT "B"**  
**DEFENDANT TASER INTERNATIONAL,**  
**INC.'S DEPOSITION DESIGNATIONS**  
**FOR TRIAL**

**DEFENDANT TASER INTERNATIONAL, INC.'S  
DEPOSITION DESIGNATIONS FOR TRIAL**

Defendant TASER International, Inc. ("TASER") identifies the following deposition excerpts for use at trial, as well as those it may use in the event of witness unavailability or other appropriate circumstances.

By designating deposition excerpts, TASER is not waiving the right to call the witness at trial. TASER reserves objections to designations from Plaintiff. Without waiving objections, TASER reserves the right to use Plaintiff's designations. TASER also reserves the right to amend or supplement designations in accordance with the Federal Rules of Civil Procedure, local rules, or by agreement, including rebuttal designations if necessary.

**DEPOSITION DESIGNATIONS**

TASER offers the following deposition designations (and in instances counter-designations) for use at trial. For these witnesses, TASER expects that the witnesses will be called at trial, and TASER is submitting the designations in the event that the witness becomes unavailable to testify. TASER also reserves the right to designate further deposition testimony in compliance with the requirements of Local Rule 16-3 and -4 in the event a witness becomes unavailable who is not listed in these designations.

**Barry Jensen**

4:21-23

5:4-17

8:23-9:7

9:15-17

10:9-11:13

12:4-16

12:21-13:2

13:23-14:5

14:10-14:12

16:13-22

1	
2	17:9-25
3	27:14-28:2
4	34:25-35:19
5	47:14-48:16
6	49:4-14
7	50:5-51:17
8	51:21-52:22
9	53:21-54:5
10	54:11-56:17
11	56:22-58:9
12	58:14-59:4
13	62:23-63:17
14	64:14-65:12
15	75:2-76:3
16	76:8-77:4
17	77:8-77:14
18	80:20-81:1
19	81:4-81:12
20	81:15
21	<b>Nick Jensen</b>
22	5:11-13
23	19:3-18
24	19:22
25	19:24-20:2
26	<b>Tanya Jensen</b>
27	5:11-13
28	7:1 – 8:6
	12:7-15
	12:24 – 13:14
	14:1-15
	16:3 – 16:10



1	
2	41:13 – 42:22
3	43:5-22
4	44:17-23
5	45:25 – 47:13
6	48:1-20
7	50:5-9
8	55:4-6
9	55:9-10
10	<b>Piotr Kubiczek</b>
11	4:8-11
12	13:2-14
13	14:5 – 15:17
14	15:21 – 18:2
15	18:9 – 21:6
16	26:25 – 30:8
17	33:1 – 35:10
18	35:24 – 42:8
19	42:20 – 44:20
20	45:1 – 46:7
21	48:2-10
22	48:24 – 49:23
23	50:3-25
24	54:2 – 58:7
25	58:10 – 62:9
26	63:6-8
27	63:22 – 65:19
28	65:21 – 70:13
	70:17 – 71:7
	71:12 – 72:23
	74:20 – 75:7
	75:21 – 77:3

1	
2	77:12 – 82:5
3	83:1-14
4	86:5 – 87:17
5	88:1 – 90:13
6	91:14 – 92:14
7	93:4-13
8	94:11 – 97:11
9	98:18-23
10	99:7-18
11	111:15 – 112:5
12	113:11 – 114:11
13	115:2-13
14	116:17-25
15	117:8-15
16	117:21 – 118:1
17	118:6 – 120:16
18	123:16-19
19	123:23 – 124:7
20	124:19 – 125:19
21	133:13 – 135:9
22	151:3-20
23	151:23-24
24	152:4 – 153:7
25	153:10 – 154:5
26	154:9 – 156:3
27	156:6-22
28	157:16 – 158:3
	158:14-18
	158:24 – 160:10
	160:16 – 161:7
	161:12 – 162:8

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162:11 – 163:16  
164:3-5  
164:8-12  
**Loren Lazoff**  
4:10-12  
13:22 – 15:17  
15:24 – 16:8  
16:11 – 23:16  
24:3-13  
24:25 – 25:9  
26:1-5  
26:12 – 29:3  
31:15– 34:25  
35:13 – 41:13  
41:19 – 42:4  
42:11 – 43:8  
43:20 – 43:24  
45:2-17  
45:23 – 46:24  
47:9-21  
47:24 – 48:23  
49:3 – 52:23  
54:13-24  
56:12 – 57:1  
58:14-19  
59:18 – 60:9  
61:8-15  
66:17 – 67:19  
71:19 – 72:18  
72:25 – 73:13  
73:15 – 77:13

1	
2	77:25 – 78:5
3	89:21 – 90:7
4	91:22 – 92:5
5	93:15 – 94:2
6	97:24 – 98:3
7	98:13 – 101:24
8	104:15 – 105:6
9	106:3 – 111:21
10	112:10 – 114:1
11	114:4 – 119:19
12	119:22 – 128:1
13	128:5 – 133:19
14	133:21 – 136:22
15	136:25 – 157:15
16	157:17 – 159:22
17	161:3 – 163:24
18	164:4 – 167:17
19	167:20 – 171:24
20	172:3-17
21	173:3-8
22	173:18 – 175:2
23	175:6 – 178:22
24	179:7 – 192:14
25	192:19 – 194:5
26	194:12 – 196:22
27	196:25 – 201:16
28	204:3-17
	205:10 – 206:4
	206:13 – 208:3
	208:6 – 209:4
	209:24 – 215:17

1	
2	215:21 – 217:17
3	218:4 - 222:25
4	223:3 – 225:12
5	225:14 – 226:22
6	227:4-14
7	228:4 – 231:11
8	233:24 – 234:23
9	236:4 – 237:9
10	238:21 – 239:7
11	239:11-22
12	240:23 – 241:5
13	241:20 – 242:17
14	243:3 – 244:15
15	250:10 – 251:24
16	252:4 – 256:9
17	256:12-19
18	256:23 – 257:24
19	258:4-8
20	258:11 – 259:14
21	259:19 – 261:19
22	261:23 – 262:23
23	263:3-7
24	263:10-15
25	263:20-21
26	263:24 – 265:4
27	265:13 – 266:3
28	266:5 – 266:12
	266:21 – 267:6
	267:11-19
	268:1-10
	268:12-23

1	
2	269:20 – 270:13
3	270:16-21
4	270:23-25
5	271:3-16
6	271:18 – 272:22
7	273:15 – 275:13
8	277:14-15
9	277:18-24
10	278:4
11	278:23 – 279:11
12	279:13 – 280:9
13	280:16 – 281:2
14	281:15 – 282:2
15	282:5 – 283:13
16	283:17 – 286:3
17	286:8-23
18	287:6 – 289:7
19	289:17-20
20	289:23
21	293:24 – 295:9
22	<b>Peter Mansky</b>
23	4:8-11
24	5:11 – 10:4
25	10:9-23
26	11:10-16
27	11:18 – 12:5
28	14:9 – 15:5
	15:7-17
	19:8-21
	19:23 – 20:5
	22:8 – 23:3

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23:5-14  
23:16 – 25:2  
25:7 – 25:14  
26:5 – 26:22  
31:23 – 32:3  
35:25 – 36:9

**Raymond Mathieson**

4:10-13  
5:18 – 8:19  
8:22 – 9:10  
9:13-15  
9:18-25  
10:4-6  
10:24 – 11:3  
11:5 – 12:4  
12:18 – 13:17  
13:23-25  
14:2-10  
14:16 – 15:11  
15:14 – 16:9  
16:20 – 17:22  
18:18 – 21:23  
21:25 – 22:13  
25:6-10  
31:18 – 33:14

**Joan McCraw**

4:8-10  
9:15-22  
9:25 – 11:1  
11:5-17  
11:21 – 14:10

1	
2	14:15 – 16:14
3	16:23 – 18:5
4	18:7-25
5	19:8-11
6	19:14 – 20:4
7	20:8-23
8	21:15 -23:11
9	23:17-19
10	23:21 – 28:20
11	28:22 – 31:24
12	32:2 – 36:2
13	36:6 – 37:10
14	38:19 – 39:16
15	41:2-22
16	41:25 – 45:14
17	45:25 – 55:25
18	56:25 – 63:14
19	63:21 – 64:18
20	68:10-14
21	69:16-21
22	70:8-23
23	71:1 – 72:3
24	72:6
25	73:19 – 74:15
26	76:25 – 77:17
27	78:4 – 80:6
28	<b>Dean Milne</b>
	4:21-24
	7:13 – 8:1
	8:9-15
	9:24 – 11:4



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2

14:6-9

3

20:5 – 21:15

4

23:3-13

5

23:18 – 28:1

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30:21 – 32:10

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34:21 – 35:4

8

55:8-14

9

55:19-23

**Craig S. Morris, D.D.S.**

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4:10-13

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8:18-9:15

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9:21-11:7

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12:23-13:20

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16:9-17:7

16

17:22-29:18

17

30:17-31:19

18

31:23-25

19

32:15 - 39:4

20

39:12-44:12

21

44:17-45:2

22

45:10-15

23

46:13-47:8

24

47:25-50:19

25

51:2-52:4

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52:18-25

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53:3-21

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53:24-55:23

56:4-57:17

58:8-59:14

59:21-60:13

1	
2	60:23-66:4
3	66:12-67:14
4	67:16-71:3
5	71:18-72:2
6	72:6-73:12
7	73:17-74:22
8	75:17-79:5
9	79:11-81:20
10	82:13-84:16
11	84:20-85:21
12	86:9-25
13	87:14-88:7
14	89:10-90:18
15	90:21-91:3
16	94:1-96:6
17	101:18-22
18	102:1-102:6
19	102:10-13
20	102:18-103:5
21	103:8-104:10
22	105:8-107:6
23	107:13-17
24	107:21
25	108:6-18
26	108:20-110:9
27	110:12-111:2
28	113:19-114:4
	114:6-115:8
	115:17-116:18
	116:20-117:15
	119:4 – 120:17

**Deborah O'Connor**

4:8-11

11:1-12

11:19 – 12:13

15:16 – 16:18

24:17-20

27:13-16

28:10 – 30:19

44:9-16

**Christopher Revell**

4:11-14

8:22 – 9:8

9:12 – 10:3

10:5 – 16:8

17:1 – 22:25

23:4 – 37:7

37:22 – 52:17

52:25 – 56:24

57:3-6

57:16 – 59:12

61:1 – 63:5

63:14-18

63:21 – 65:3

65:9-13

65:16 – 66:18

**RESERVED COUNTER-DESIGNATIONS**

TASER reserves its objections, motions *in limine*, and *Daubert* motions for certain witnesses here. Without waiving those, TASER retains the right to offer designations from expert witnesses retained by Plaintiff, medical providers to Dr. Rich, or other witnesses identified by Plaintiff to the extent they become unavailable to testify or under other appropriate

circumstances, including without limitation Robert Johnson, Nathan Lavid, and Douglas Zipes.<sup>1</sup> Those have not been designated here with the understanding that the current plan is to call them at trial.

TASER reserves objections to these witnesses and will consult with Plaintiffs. To the extent designations are tendered and permitted at trial from the following witnesses, and without waiving objections, TASER reserves the right to supplement such designations with the testimony identified here.

**Criss Rich**

5:11-13

7:10-11

7:20-23

8:1-4

8:18-25

10:16 – 13:8

13:17 – 15:15

21:5-7

21:23 – 22:15

23:14-20

23:25 – 24:9

27:7-17

28:16 – 29:18

29:22 – 30:4

38:25 – 40:16

47:4 -48:6

58:10-12

58:25 – 59:4

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<sup>1</sup> This includes designations from several depositions from this and other cases for these witnesses.

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**Greg Rich**

5:11-14  
7:1-24  
8:2 – 10:10  
12:6 – 13:23  
15:1-13  
17:3 – 19:9

**Randy Rich**

5:11-14  
6:19-20  
8:12-24  
11:14-21  
13:19 – 14:2  
17:6-19  
18:16-25  
19:3-14  
20:4-12  
20:17 – 22:24  
23:25 – 24:17  
26:21 – 27:23  
29:5 – 30:17  
32:25 – 33:7  
33:19 – 34:15  
75:17-22  
77:3 – 78:8

**Leslie Johnson**

5:11-12  
8:8-14  
8:17-20  
14:22 – 15:16  
15:18

15:24 – 16:4

16:16-18

16:25 – 17:16

### RESERVED DESIGNATIONS

TASER currently plans to call as expert witnesses Dr. John Peters, Jr., Dr. Mark Kroll, Keith Hock, Jeni Kostelac, Dr. Gary Vilke, Dr. James Stone, Dr. Jan Leestma, Dr. Michael Evans, Dr. Dorin Panescu, Andrew Hinz, J. Patrick Reilly, and Patrick Smith. Based on the course of trial, scheduling, witness availability, distance, out-of-state (or out-of-country) travel, etc., TASER tenders the following designations for some of these witnesses in the event they become unavailable for trial. TASER also reserves the right to designate relevant deposition testimony from other cases in which these experts have testified in the event the experts are unavailable to testify at trial.

#### Michael Evans

4:10-12

5:17 – 6:11

14:21 – 15:15

16:19 – 17:16

18:18 – 20:24

21:7-23

22:4-12

22:19 – 23:3

24:22 – 28:14

29:9 – 30:8

31:20 – 32:16

34:15 – 36:8

37:13-18

37:22 - 38:19

39:8 – 42:23

43:7-21

1	
2	<b>Jan Leestma</b>
3	3:8-11
4	16:10 – 17:7
5	18:20 – 19:11
6	24:4-18
7	27:8-12
8	27:22 – 30:17
9	33:14 – 34:8
10	34:14 – 35:6
11	35:10 – 36:17
12	38:13 – 41:16
13	41:19 – 42:3
14	42:18 – 43:19
15	44:22 – 52:3
16	54:14 – 55:13
17	57:6-23
18	63:14-23
19	64:9-11
20	64:15 – 65:3
21	69:3-8
22	69:12 – 71:5
23	75:7 – 77:17
24	79:19 – 83:13
25	87:5 – 88:20
26	88:24 – 91:21
27	93:8-23
28	94:2 – 95:12
	96:4 – 97:5
	100:13 – 102:10
	102:21 – 104:5
	105:3-10

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109:24 – 110:20  
112:24 – 114:4  
114:9-21  
121:14 – 122:4  
125:3-18

**Dorin Panescu**

5:8-11  
24:7-25  
28:9-17  
28:23 – 29:3  
31:10-18  
38:10 – 39:20  
39:25 – 41:14  
49:4-12  
59:12-17  
59:19 – 60:10  
79:25 – 81:10  
81:16 – 82:6  
86:7 – 87:10  
93:2 – 94:3  
97:17-25  
108:1-9

**James Stone**

4:9-11  
6:10-18  
13:8-13  
13:17 – 14:6  
16:10 – 17:12  
18:17 – 19:18  
26:23 – 31:2  
32:19-21



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2	36:1-9
3	36:12 – 37:12
4	39:4 – 40:17
5	41:13 – 44:1
6	44:7 – 47:1
7	47:11 – 48:7
8	49:9 – 53:1
9	53:22 – 55:23
10	60:23 – 62:3
11	62:8 – 67:8
12	67:21 – 102:20
13	103:19 – 104:15
14	107:4 – 109:5
15	112:11 - 113:6
16	115:6-14
17	115:23 – 117:19
18	118:5-8
19	120:13-21
20	122:11 – 123:10
21	131:19 – 132:7
22	132:18-24
23	133:7-23
24	159:7 – 161:1
25	166:7-15
26	168:18-20
27	168:23 – 170:4
28	170:9 – 171:18
	176:2-5
	193:24 – 195:16
	195:24 – 196:16
	202:15 – 204:12

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204:18 – 205:23

206:23 – 207:12

**Gary Vilke**

4:9-11

31:4 – 33:7

33:22 – 37:7

37:12 – 40:8

40:10 – 43:5

43:14-17

45:2 – 46:3

46:17 – 47:7

47:11 – 48:23

48:25 – 49:11

50:11-16

51:3-13

52:11 – 53:11

54:1-18

56:4 – 57:10

58:3-21

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73:11-19

74:5-19

75:4 – 76:25

77:12-17

Respectfully submitted,

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